

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

In The Matter of:	:	Proceeding to Assess a Class II
	:	Administrative Penalty Under
Columbia Gas Transmission, LLC,	:	Section 309(g) of the Clean Water Act
	:	Docket Nos. CWA-03-2012-0078,
	:	CWA-03-2012-0130 CONSOLIDATED
Respondent	:	
_____	:	

**CONSENT AGREEMENT AND FINAL ORDER**

**I. STATUTORY AUTHORITY**

This Consent Agreement and Final Order ("CAFO") is entered into by the Director of the Environmental Assessment and Innovation Division, United States Environmental Protection Agency, Region III ("Complainant") and Columbia Gas Transmission, LLC ("Respondent"), pursuant to Section 309(g) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules")*, 40 C.F.R. Part 22. Complainant and Respondent (collectively, the "Parties") agree that settling this action without the adjudication of any issue of fact or law is in their interest and in the public interest. Respondent consents to the assessment of the civil penalty specified in this CAFO and the Parties agree to the terms of the CAFO.

**II. EPA'S FINDINGS OF FACT**

1. On June 29, 2012, two Administrative Penalty Complaints ("Complaints") initiating proceedings for assessment of a Class II Administrative Penalty pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), were issued to Respondent. Upon Joint Motion of the Parties, the two matters were consolidated by Order issued November 27, 2012.
2. This Consent Agreement incorporates by reference Paragraphs 4, 6, 10, and the first two sentences in Paragraph 5 in the Administrative Penalty Complaint in CWA-03-2012-0078 and Paragraphs 4, 8, 9, 12, 14, the first two sentences of Paragraph 5, the first two sentences of Paragraph 6, and the first sentence of Paragraph 7 in the Administrative Penalty Complaint in CWA-03-2012-0130, and adopts them as the EPA's Findings of Fact herein.

### **III. EPA'S CONCLUSIONS OF LAW**

3. This Consent Agreement incorporates by reference Paragraphs 3, 8, 9, 12, and the third sentence of Paragraph 5 in the Administrative Penalty Complaint in CWA-03-2012-0078 and Paragraphs 3, 9, 10, 11, 14, and the third sentence of Paragraph 5, the third sentence of Paragraph 6, and the second sentence of Paragraph 7 in the Administrative Penalty Complaint in CWA-03-2012-0130 and adopts them as EPA's Conclusions of Law herein.
4. EPA concludes that Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311, and are liable to the United States for a civil penalty in accordance with Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

### **IV. GENERAL PROVISIONS**

5. For the purpose of the proceeding:
  - A. Respondent admits to the jurisdictional allegations of the Complaints;
  - B. Respondent neither admits nor denies the specific factual allegations set forth in the Complaints;
  - C. Respondent consents to the assessment of the civil penalty (the "Civil Penalty") set forth herein;
  - D. Respondent agrees to undertake all actions required by this Consent Agreement;
  - E. Respondent hereby expressly waives its right to contest the allegations set forth in the Complaints at a hearing under Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B);
  - F. Respondent waives its right to appeal this Final Order under Section 309(g)(8)(B) of the CWA, 33 U.S.C. § 1319(g)(8)(B).
6. Each party to this agreement shall pay its own costs and attorney's fees.
7. This CAFO does not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be interpreted to be a permit or modification of any existing permit issued pursuant to Sections 402 of the CWA, 33 U.S.C. § 1342 or any other law. Nor does this CAFO constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.
8. This Consent Agreement and the accompanying Final Order resolves the civil claims against the Respondent for the specific violations alleged in the Complaints issued in the above-captioned actions. EPA reserves the right to commence an action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, the regulations promulgated thereunder, and

any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its effective date.

9. Respondent represents that it is in compliance with the CWA at the locations described more fully in the Complaints. This CAFO is conditioned upon the accuracy of the Respondent's representations to EPA. EPA reserves the right to institute a new and/or separate action should EPA determine that Respondent's representations were inaccurate or should Respondent fail to comply with the terms of this CAFO. That right shall be in addition to all other rights and causes of action, civil or criminal, the EPA may have under law or equity in such event.
10. This CAFO may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.
11. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO or one or more of its terms and conditions is held invalid, or is not executed by all of the signatories in identical form, or is not approved in such identical form by the Regional Administrator or his designee, then the entire CAFO shall be null and void.
12. Each of the undersigned representatives of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind the Party he or she represents to this document.

#### **V. PENALTY**

13. For the purpose of this proceeding, the Respondent consents to the assessment of the Civil Penalty in the amount of seventy-five thousand dollars (\$75,000) in full and complete settlement of EPA's civil claims as set forth in the Complaints alleging violation of Section 301 of the Clean Water Act, 33 U.S.C. § 1311.

#### **VI. PAYMENT TERMS**

14. Within thirty (30) days of the effective date of this Order, Respondents shall pay the civil penalty of seventy-five thousand dollars (\$75,000) in the following manner:
  - A. All payments by Respondent shall reference Respondent's name and address, and the Docket Numbers of this action, CWA-03-2012-0078 & CWA-03-2012-0130;
  - B. All checks shall be made payable to "United States Treasury";
  - C. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197 9000

Contact: Bryson Lehman 513-487-2123

- D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines & Penalties  
1005 Convention Plaza  
Mail Station SL MO C2 GL  
St. Louis, MO 63101

Contact: 314-418-1028

- E. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268 0001

- F. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

- G. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737  
Contact: Jesse White 301 887 6548 or REX, 1 866 234 5681

H. On Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

I. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

J. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to the following:

U.S. Environmental Protection Agency  
Regional Hearing Clerk (3RC00)  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029;

Stephanie Andreescu  
U.S. Environmental Protection Agency  
Region III (3EA30)  
1650 Arch Street  
Philadelphia, PA 19103-2029;

and

Stefania D. Shamet  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (3RC20)  
1650 Arch Street  
Philadelphia, PA 19103-2029

15. The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty is not paid as directed:

Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.


Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each such subsequent thirty (30) days the penalty remains unpaid.

A penalty charge, not to exceed six percent, will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).


15. All submissions required herein shall be signed and dated by a responsible official of Respondent to include the following certification:

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*


Signed   
Title Pres. Ltr. Ops. & PP  
Date 1/28/13

**VII. EFFECTIVE DATE**

16. This CAFO shall become final and effective thirty (30) days after it is lodged with the Regional Hearing Clerk, pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5).


  
Shawn Patterson, Vice President

1/28/13  
Date

  
Director, Environmental Assessment & Investigation  
Div.

MAR 13 2013  
Date

SO ORDERED:

  
Shawn M. Garvin  
Regional Administrator  
Environmental Protection Agency  
Region III

MAR 14 2013  
Date